

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
2006 JUL -5 P 9:35

MONTRICIA PITTMAN,]	JUDY A. HACKETT, CLK MIDDLE DISTRICT COURT MONTGOMERY, ALA.
Plaintiff,]	
vs.]	Case Number: 2:06CV507-VPM
MONTGOMERY COUNTY SHERIFF'S DEPARTMENT; and D.T. MARSHALL,]	
Defendants.]	

**MOTION TO DISMISS OF DEFENDANTS MONTGOMERY COUNTY
SHERIFF'S DEPARTMENT AND SHERIFF D.T. MARSHALL**

COME NOW the Defendant identified in the Complaint as the "Montgomery County Sheriff's Department," and Defendant Sheriff D.T. Marshall, pursuant to Rule 12(b), Fed. R.Civ. P., and move this Court to dismiss the Plaintiff's Complaint. Defendants show as follows:

1. Plaintiff's claims against the Defendant identified in the Complaint as the "Montgomery County Sheriff's Department" should be dismissed because the "Montgomery County Sheriff's Department" is not an entity capable of being sued.
2. Plaintiff has failed to adequately plead a claim for discriminatory discharge.
3. Plaintiff has failed to adequately plead a claim for retaliation.
4. Plaintiff's claims for hostile work environment and constructive discharge should be dismissed because they exceed the scope of Plaintiff's EEOC charge No. 130-2005-07026, for which she has received a right to sue letter.

5. Plaintiff's Complaint is due to be dismissed for failure to satisfactorily exhaust administrative remedies.

WHEREFORE, THE PREMISES CONSIDERED, Defendants move this Court to dismiss Plaintiff's Complaint and grant them any other relief to which they may be entitled.



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon the following counsel of record by placing a copy of the same in the United States mail, postage prepaid, this the 5 day of July, 2006:

Deborah M. Nickson
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Connie Wall
Of Counsel